IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 7543 of 2004
With
CRIMINAL MISC.APPLICATION No. 7544 of 2004
With
CRIMINAL MISC.APPLICATION No. 7546 of 2004
With
CRIMINAL MISC.APPLICATION No. 7547 of 2004
With
CRIMINAL MISC.APPLICATION No. 7549 of 2004
With
CRIMINAL MISC.APPLICATION No. 7550 of 2004
With
CRIMINAL MISC.APPLICATION No. 7552 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ARYA SILK MILLS PVT. LTD. & 1 - Applicant(s)
Versus
THE STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
NANAVATI & NANAVATI for Applicant(s) : 1 - 2.
PUBLIC PROSECUTOR for Respondent(s) : 1,
MR JAL SOLI UNWALA for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 30/08/2007

COMMON ORAL JUDGMENT

1. As common question of law and facts arise in this group of applications, they are being disposed of by this common judgment and order.

2. Criminal Misc. Application No.7543 of 2004 is filed by the applicants – original accused Nos.1 and 2 to quash and set aside the proceedings of Criminal Case No.1 of 2001 pending in the Court of learned JMFC, Surat filed by the respondent No.2 – original complainant for the offence under section 138 of the Negotiable Instrument Act and the summons issued by the learned trial Court dated 9.10.2001 in the said complaint.

Criminal Misc. Application No.7544 of 2004 is filed by the applicants – original accused Nos.1 and 2 to quash and set aside the proceedings of Criminal Case No.3 of 2001 pending in the Court of learned JMFC, Surat filed by the respondent No.2 – original complainant for the offence under

section 138 of the Negotiable Instrument Act and the summons issued by the learned trial Court dated 5.10.2001 in the said complaint.

Criminal Misc. Application No.7546 of 2004 is filed by the applicants – original accused Nos.1 and 2 to quash and set aside the proceedings of Criminal Case No.5 of 2001 pending in the Court of learned JMFC, Surat filed by the respondent No.2 – original complainant for the offence under section 138 of the Negotiable Instrument Act and the summons issued by the learned trial Court dated 6.10.2001 in the said complaint.

Criminal Misc. Application No.7547 of 2004 is filed by the applicants – original accused Nos.1 and 2 to quash and set aside the proceedings of Criminal Case No.6 of 2001 pending in the Court of learned JMFC, Surat filed by the respondent No.2 – original complainant for the offence under section 138 of the Negotiable Instrument Act and the summons issued by the learned trial Court dated 8.10.2001 in the said complaint.

Criminal Misc. Application No.7549 of 2004 is filed by the applicants – original accused Nos.1 and 2 to quash and set aside the proceedings of Criminal Case No.7 of 2001 pending in the Court of learned JMFC, Surat filed by the respondent No.2 – original complainant for the offence under section 138 of the Negotiable Instrument Act and the summons issued by the learned trial Court dated 11.10.2001 in the said complaint.

Criminal Misc. Application No.7550 of 2004 is filed by the applicants – original accused Nos.1 and 2 to quash and set aside the proceedings of Criminal Case No.9 of 2001 pending in the Court of learned JMFC, Surat filed by the respondent No.2 – original complainant for the offence under section 138 of the Negotiable Instrument Act and the summons issued by the learned trial Court dated 15.10.2001 in the said complaint.

Criminal Misc. Application No.7552 of 2004 is filed by the applicants – original accused Nos.1

and 2 to quash and set aside the proceedings of Criminal Case No.10 of 2001 pending in the Court of learned JMFC, Surat filed by the respondent No.2 – original complainant for the offence under section 138 of the Negotiable Instrument Act and the summons issued by the learned trial Court dated 15.10.2001 in the said complaint.

3. All these applications were admitted and ad-interim relief/s were granted by the learned Single Judge of this Court and that is how further proceedings of aforesaid Criminal Cases are stayed.

4. Today, when the matters are called out, learned advocates appearing for the respective parties have submitted before the Court that during the pendency of the present proceedings, parties have settled the accounts and have arrived at settlement at 73% of the amount against the outstanding payment from the respective applicants i.e. M/s. Arya Silk Mills Private Limited. It is also jointly submitted that even

the original complainant has also received the amount as per the settlement and therefore, it is requested to compound the offence and to quash and set aside the impugned complaints. Learned advocate appearing for the respondent No.2 – original complainant has produced on record one communication from the original complainant addressed to Shri Unwala, learned advocate appearing for the original complainant informing that he has made a settlement at 73% of the amount against the outstanding payment from M/s. Arya Silk Mills Private Limited and they have received the same as settlement and remaining amount they have waived. It is also requested in the said letter / communication requesting the Court to compound the offence. In view of the above, learned advocates appearing for the respective parties have requested to compound the offence and to quash and set aside the impugned complaints.

5. For the reasons stated above and considering the consensus arrived at between the parties and as

the account is already settled and the amount as per the settlement has been paid by the applicants to the respondent No.2 – original complainant and that the original complainant has received the same and has also agreed to compound the offence, the offences as alleged against the applicants under section 138 of the Negotiable Instrument Act are hereby compounded and accordingly, Criminal Case Nos.1 of 2001, 3 of 2001, 5 of 2001, 6 of 2001, 7 of 2001, 9 of 2001 and 10 of 2001 and the summons issued by the learned JMFC, Surat are hereby quashed and set aside. Rule is made absolute to the aforesaid extent in each application.

[M.R.Shah, J.]

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